

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION No. 1659 (S/S) OF 2003

(Urgency Application No. 2097 of 2006)

1. Sri Ram Ratan S/o Sri Satya Narayan R/o 34, Someshwar Nagar, Rishikesh, District – Dehradun.
2. Sri Mahaveer Singh S/o Late Bhim Singh Bisht R/o Vill. Toap post office Ujjawalpur District- Chamoli
3. Sri Ganga Singh S/o Late Shri Diwan Singh R/o Village Chami Bhaiskot, Post Office District- Pithoragarh.
4. Sri Dinesh Lal S/o Sri Bansilal R/o Vill. Saikot (Nagadi) post office Saikot, District – Chamoli.
5. Sri Prabhakar Thapliyal S/o Sri Suchitra Nand R/o 11 D/11, Sarkyukar Road, Dehradun
6. Sri Ajay Kumar Seni S/o Sri Shyam Lal Seni Vill. Moheddinpur Post Office Devband, District –Saharanpur
7. Sri Govind Singh S/o Sri Humum Singh Bisht R/o Vill. Kandarwala Post Office Saikot, District – Chamoli

.....Petitioners

Versus

1. State of Uttaranchal through Secretary, Food & Civil Supply Department Uttaranchal, Dehradun.
2. Commissioner Food & Civil Supply Department Uttaranchal, Dehradun.

.....Respondents

27.03.2006

***Sri Pramood Bailwal, learned counsel for the petitioners/applicants.
Learned Standing Counsel for the respondents.***

Hon'ble Rajesh Tandon, J.

Heard Sri Pramood Bailwal, Learned Counsel for the petitioners and Learned Standing Counsel for the respondents.

By the present writ petition, the petitioners have prayed for writ of mandamus directing the respondents to regularize the service of the petitioners and pay minimum pay scale and allowances admissible to them.

Briefly stated, Petitioners No. 1 to 7 were appointed on the post of Godown Chowkidar in the department of Food and Civil Supply, Dehradun on daily wages. The petitioner nos. 1,2& 3 were appointed since 1993 and petitioner nos. 4 and 5 were appointed

since 1994 and petitioner no.6 was appointed since 1995 and the petitioner No.7 was appointed since 1996 in the said department. They were getting only Rs. 25/- per day while on the other hand other regular employees whose work are same are being paid minimum pay scale per month as such the action of the respondents is discriminatory which is violate of Article 14 of the Constitution of India.

The grievance of the petitioners are that they have not yet been regularized while they are working since 1993 on daily wages.

Standing Counsel has filed Counter Affidavit stating therein that the Secretary, Food & Civil Supply, Uttaranchal, Dehradun had taken policy decision on 05.08.2002, by which the cadres of the Chaukidar, Waterman and Sweeper have been declared as dying cadre and has also stated that the salaries of the petitioners are being paid @ Rs.42.50 while the petitioners are still working.

Petitioners have further submitted that they are already working under the post which has been as declared dying cadre. He has also referred that U.P. has framed the rules for daily wagers however the State of Uttaranchal has not framed the rules.

The Apex Court in the case of State of U.P. Vs. Puttilal 2002 D (1) ELC 524 (SC) has issued directions for framing schemes so as to accommodate all daily wagers of long standing duration and work-charge employees as a regular employees. The observations are quoted below:-

“U.P. Regularization of Daily Wages Appointment on Group ‘D’ Posts rules, 2001 – Employment – Regularization of daily wagers- Allahabad High Court directing framing of scheme for regularization of daily wagers in Forest Department. – Supreme Court directing scheme to be framed within three months. State of U.P. bifurcated into two States. State of Uttaranchal impleaded and granted time to file their response. State of U.P. framing 2001 Rules for Group ‘D’

posts as also for Group 'C' posts. Both statutory rules to govern regularization of all daily wagers appointed in any department including Forest Department. Supreme Court directing that daily wagers would be entitled to draw minimum of pay scale being received by their counterparts in Government but not entitled to any other allowances or increment till they are daily wagers. Their regular absorption to be dealt with in accordance with statutory rules. Uttaranchal State also framing scheme of regularization. But qualification essential for regularization would be as relevant on date particular employee taken in as daily wager and not qualification fixed under scheme Daily wager in Uttaranchal also to get minimum pay scale until his regularization."

In view of the above, the respondents are directed to consider the regularization of the petitioners within a period of three weeks by framing the scheme, from the date of production of certified copy of this order in accordance with law.

Consequently, writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

27.03.2006

Jain